

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
FILE NO. _____

DWAYNE ALLEN DAIL,)
Plaintiff)
v.)
CITY OF GOLDSBORO, CITY OF)
GOLDSBORO POLICE CHIEF TIMOTHY)
J. BELL, in his official and individual)
capacities; JASPER M. "JACKIE")
WARRICK, JR. in his official and individual)
capacities; CHESTER HILL, in his official)
and individual capacities, THE ESTATE OF)
CHESTER HILL, DELORES A. HILL,)
The Administratrix of the Estate of Chester)
Hill, JOHN WIGGINS, in his individual and)
official capacities; RONALD MELVIN,)
in his individual and official capacities; THE)
ESTATE OF RONALD MELVIN, SYLVIA)
MELVIN, Administratrix of the Estate of)
Ronald Melvin, and JOHN AND JANE)
DOES 1-10, in their official and individual)
Capacities)
Defendants)

NOTICE OF REMOVAL

NOW COME the Defendants, by and through undersigned counsel, and hereby file this Notice of Removal of the above described action to the United States District Court for the Eastern District of North Carolina, Western Division, from the General Court of Justice, Superior Court Division, Wayne County, North Carolina, where the action is now pending, as provided by Title 28, United States Code, Chapter 89 and state as follows:

1. The above entitled action was commenced in the General Court of Justice, Superior Court Division, Wayne County, State of North Carolina and is now pending in that court. Copies of the Complaint were received by Defendant John Wiggins on September 23, 2010, by Defendants City of Goldsboro Jasper M. Warrick, Jr. on October 4, 2010, and

Defendant Timothy J. Bell on October 11, 2010. Upon information and belief, Defendants Chester Hill and Ronald Melvin have not been served as of the date of this Notice.

2. The action is a civil action concerning allegations by the Plaintiff of violation of his civil rights pursuant to 42 U.S.C. §1983, and specifically claims that Plaintiff's constitutional rights were violated "including but not limited to, his due process rights and the right to not be subject to improper deprivations of liberty in the pursuit of happiness". The United States District Court for the Eastern District of North Carolina has jurisdiction by reason of 28 U.S.C. §1441 and §1331, in that the action arose, and Plaintiff has based his claims for relief against Defendants, by virtue of and under the United States Constitution.

3. These Defendants further allege that the action was commenced by the filing of the Complaint on August 26, 2010, the filing of the Amended Complaint on September 17, 2010, and the subsequent receipt of these documents by certain of the Defendants.

4. A copy of all process, pleadings, and orders served upon Defendants are filed with this notice.

5. All named Defendants who have received copies of the pleadings join in this removal.

6. Defendants will give written notice of the filing of this notice to Plaintiff as required by 28 U.S.C. §1446(d).

7. A copy of this notice will be filed with the Clerk of Superior Court of Wayne County, North Carolina, as required by 28 U.S.C. §1446(d), via the correspondence attached hereto as Exhibit "A" and incorporated as if fully set forth herein.

WHEREFORE, these Defendants hereby request that this action proceed in this Court as an action properly removed to it.

This the 21st day of October, 2010.

By: /s/Scott C. Hart
State Bar No. 19060
Attorneys for Defendants
Sumrell, Sugg, Carmichael, Hicks & Hart, P.A.
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New Bern, North Carolina 28563
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **NOTICE OF REMOVAL** was served upon Plaintiff by depositing the same in a postpaid wrapper in an official depository under the exclusive care and custody of the United States Postal Service, New Bern, North Carolina, and addressed to:

E. Spencer Parris
G. Christopher Olson
410 Glenwood Avenue, Suite 200
Raleigh, NC 27608

Burton Craige
Narendra K. Ghosh
1312 Annapolis Drive, Suite 103
Raleigh, NC 27608

This the 21st day of October, 2010.

By: /s/Scott C. Hart
State Bar No. 19060
Attorneys for Defendants
Sumrell, Sugg, Carmichael, Hicks & Hart, P.A.
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